

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Amendment of Section 73.202(b),)	
Table of Allotments,)	MB Docket No. 03-14
FM Broadcast Stations.)	RM-10629
(Mason and Fredericksburg, Texas))	

**REPORT AND ORDER
(Proceeding Terminated)**

Adopted: October 1, 2003

Released: October 3, 2003

By the Assistant Chief, Audio Division:

1. The Audio Division has before it the *Notice of Proposed Rule Making* in this proceeding.¹ Jayson and Janice Fritz filed Comments. For the reasons stated below, we are substituting Channel 289C3 for Channel 289C2 at Mason, Texas, reallocating Channel 289C3 to Fredericksburg, Texas, and are modifying the outstanding construction permit for the Channel 289C2 allotment at Mason, Texas, to specify operation on Channel 289C3 at Fredericksburg, Texas.

Background

2. At the request of Jayson and Janice Fritz, the *Notice* proposed the substitution of Channel 289C3 for Channel 289C2 at Mason, Texas, reallocation of Channel 289C3 to Fredericksburg, Texas, and modification of their construction permit (File No. BPH-19960826MS) to specify operation on Channel 289C3 at Fredericksburg. This request was filed pursuant to Section 1.420(i) of the Commission's Rules which permits the modification of a station authorization to specify a new community of license without affording other interested parties an opportunity to file competing expressions of interest.² In considering a reallocation proposal, we compare the existing versus the proposed allotment to determine whether the reallocation will result in a preferential arrangement of allotments. This determination is based upon the FM allotment priorities set forth in *Revision of FM Assignment Policies and Procedures*.³

3. We are substituting Channel 289C3 for Channel 289C2 at Mason, Texas, reallocating Channel

¹ *Mason and Fredericksburg, Texas*, 18 FCC Rcd 449 (Med. Bur. 2003).

² See *Modification of FM and TV Authorizations to Specify a New Community of License* ("Community of License"), 4 FCC Rcd 4870 (1989), *recon. granted in part*, 5 FCC Rcd 7094 (1990).

³ 90 FCC 2d 88 (1982). The FM allotment priorities are (1) First fulltime aural service; (2) Second fulltime aural service; (3) First local service; and (4) Other public interest matters. Co-equal weight is given to Priorities 92) and (3).

289C3 to Fredericksburg, Texas, and are modifying the outstanding construction permit (File No. BPH-19960826MS) to specify operation on Channel 289C3 at Fredericksburg.⁴ In this regard, we note that Jayson and Janice Fritz have not commenced service in Mason and, as such, we are not withdrawing the sole local operating service from Mason. This reallocation will provide a first FM service to Fredericksburg. In addition to providing a competitive local service to an incorporated community of 8,911 persons, the station will serve approximately 23,700 persons. In regard to Mason, with a population of 2,134 persons, there are two outstanding construction permits and two additional vacant allotments. The removal of the Channel 289C3 allotment from Mason will create no underserved areas or populations.

4. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective November 17, 2003, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED, with respect to the community listed below, to read as follows:

<u>City</u>	<u>Channel Nos.</u>
Fredericksburg, Texas	289C3
Mason, Texas	224A, 239C2, 273C2, 281C2

5. IT IS FURTHER ORDERED, That pursuant to Section 316(a) of the Communications Act of 1934, as amended, that the construction permit of Jayson and Janice Fritz (BPH-19960826MS) for the Channel 289C2 allotment at Mason, Texas, IS MODIFIED, to specify operation on Channel 289C3 at Fredericksburg, Texas, subject to the following conditions:

- (a) Within 90 days of the effective date of this *Order*, the permittee shall file with the Commission a minor change application for construction permit (FCC Form 301) specifying the new facility;
- (b) Upon grant of the construction permit, program tests may be conducted in accordance with Section 73.1620 of the Commission's Rules;
- (c) Nothing contained herein shall be construed to authorize a change in transmitter site or to avoid the necessity of filing an environmental assessment pursuant to Section 1.1307 of the Commission's Rules.

6. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

⁴ The reference coordinates for the Channel 289C3 allotment at Fredericksburg, Texas, are 30-23-37 and 99-01-05.

7. For further information concerning this proceeding, contact Robert Hayne, Media Bureau, (202) 418-2177.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Assistant Chief, Audio Division
Media Bureau